

Part 4

Sentencing Commission

63M-7-401 Creation -- Members -- Appointment -- Qualifications.

- (1) There is created a state commission to be known as the Sentencing Commission composed of 27 members. The commission shall develop by-laws and rules in compliance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and elect its officers.
- (2) The commission's members shall be:
 - (a) two members of the House of Representatives, appointed by the speaker of the House and not of the same political party;
 - (b) two members of the Senate, appointed by the president of the Senate and not of the same political party;
 - (c) the executive director of the Department of Corrections or a designee appointed by the executive director;
 - (d) the director of the Division of Juvenile Justice Services or a designee appointed by the director;
 - (e) the executive director of the Commission on Criminal and Juvenile Justice or a designee appointed by the executive director;
 - (f) the chair of the Board of Pardons and Parole or a designee appointed by the chair;
 - (g) the chair of the Youth Parole Authority or a designee appointed by the chair;
 - (h) two trial judges and an appellate judge appointed by the chair of the Judicial Council;
 - (i) two juvenile court judges designated by the chair of the Judicial Council;
 - (j) an attorney in private practice who is a member of the Utah State Bar, experienced in criminal defense, and appointed by the Utah Bar Commission;
 - (k) an attorney who is a member of the Utah State Bar, experienced in the defense of minors in juvenile court, and appointed by the Utah Bar Commission;
 - (l) the director of Salt Lake Legal Defenders or a designee appointed by the director;
 - (m) the attorney general or a designee appointed by the attorney general;
 - (n) a criminal prosecutor appointed by the Statewide Association of Public Attorneys;
 - (o) a juvenile court prosecutor appointed by the Statewide Association of Public Attorneys;
 - (p) a representative of the Utah Sheriff's Association appointed by the governor;
 - (q) a chief of police appointed by the governor;
 - (r) a licensed professional appointed by the governor who assists in the rehabilitation of adult offenders;
 - (s) a licensed professional appointed by the governor who assists in the rehabilitation of juvenile offenders;
 - (t) two members from the public appointed by the governor who exhibit sensitivity to the concerns of victims of crime and the ethnic composition of the population; and
 - (u) one member from the public at large appointed by the governor.

Renumbered and Amended by Chapter 382, 2008 General Session

63M-7-402 Terms of members -- Vacancies -- Reappointment.

- (1)
 - (a) Except as required by Subsection (1)(b), as terms of current commission members expire, the appointing authority shall appoint each new member or reappointed member to a four-year term.

- (b) Notwithstanding the requirements of Subsection (1)(a), the appointing authority shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.
- (2) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
- (3) All members of the commission, including those appointed before July 1, 1995, shall be eligible for reappointment one time.

Renumbered and Amended by Chapter 382, 2008 General Session

63M-7-403 Vacancies.

If a commission member no longer holds a qualifying position, resigns, or is unable to serve, the vacancy shall be filled by the appointing authority.

Renumbered and Amended by Chapter 382, 2008 General Session

63M-7-404 Purpose -- Duties.

- (1) The purpose of the commission shall be to develop guidelines and propose recommendations to the Legislature, the governor, and the Judicial Council about the sentencing and release of juvenile and adult offenders in order to:
 - (a) respond to public comment;
 - (b) relate sentencing practices and correctional resources;
 - (c) increase equity in criminal sentencing;
 - (d) better define responsibility in criminal sentencing; and
 - (e) enhance the discretion of sentencing judges while preserving the role of the Board of Pardons and Parole and the Youth Parole Authority.
- (2)
 - (a) The commission shall modify the sentencing guidelines for adult offenders to implement the recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism.
 - (b) The modifications under Subsection (2)(a) shall be for the purposes of protecting the public and ensuring efficient use of state funds.
- (3)
 - (a) The commission shall modify the criminal history score in the sentencing guidelines for adult offenders to implement the recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism.
 - (b) The modifications to the criminal history score under Subsection (3)(a) shall include factors in an offender's criminal history that are relevant to the accurate determination of an individual's risk of offending again.
- (4)
 - (a) The commission shall establish sentencing guidelines for periods of incarceration for individuals who are on probation and:
 - (i) who have violated one or more conditions of probation; and
 - (ii) whose probation has been revoked by the court.
 - (b) The guidelines shall consider the seriousness of the violation of the conditions of probation, the probationer's conduct while on probation, and the probationer's criminal history.
- (5)

- (a) The commission shall establish sentencing guidelines for periods of incarceration for individuals who are on parole and:
 - (i) who have violated a condition of parole; and
 - (ii) whose parole has been revoked by the Board of Pardons and Parole.
- (b) The guidelines shall consider the seriousness of the violation of the conditions of parole, the individual's conduct while on parole, and the individual's criminal history.
- (6) The commission shall establish graduated sanctions to facilitate the prompt and effective response to an individual's violation of the terms of probation or parole by the adult probation and parole section of the Department of Corrections in order to implement the recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism, including:
 - (a) sanctions to be used in response to a violation of the terms of probation or parole;
 - (b) when violations should be reported to the court or the Board of Pardons and Parole; and
 - (c) a range of sanctions that may not exceed a period of incarceration of more than:
 - (i) three consecutive days; and
 - (ii) a total of five days in a period of 30 days.
- (7) The commission shall establish graduated incentives to facilitate a prompt and effective response by the adult probation and parole section of the Department of Corrections to an offender's:
 - (a) compliance with the terms of probation or parole; and
 - (b) positive conduct that exceeds those terms.

Amended by Chapter 412, 2015 General Session

63M-7-405 Compensation of members -- Reports to the Legislature, the courts, and the governor.

- (1)
 - (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:
 - (i) Section 63A-3-106;
 - (ii) Section 63A-3-107; and
 - (iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.
 - (b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.
- (2) The commission shall submit to the Legislature, the courts, and to the governor at least 60 days prior to the annual general session of the Legislature its reports and recommendations for sentencing guidelines and amendments. It is intended that the commission utilize existing data and resources from state criminal justice agencies. The commission is authorized to employ professional assistance and other staff members as it considers necessary or desirable.
- (3) The commission shall be responsive to all three branches of government, but be part of the Commission on Criminal and Juvenile Justice for coordination on criminal and juvenile justice issues, budget, and administrative support.

Amended by Chapter 387, 2014 General Session

63M-7-406 Publication of reports.

The commission shall also be authorized to prepare, publish, and distribute from time to time reports of its studies, recommendations, and statements.

Renumbered and Amended by Chapter 382, 2008 General Session